

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

STATE OF LOUISIANA

**CURTIS WILLIAMS,
Plaintiff**

VERSUS

**KLLM TRANSPORT SERVICES, LLC,
XYZ INSURANCE COMPANY, AND
JOHN DOE**

Defendants

*** CIVIL ACTION No.:**
*** SECTION:**
*** JUDGE:**
*** MAGISTRATE JUDGE:**

PETITION FOR REMOVAL

Defendant, KLLM Transport Services, LLC, files this Petition of Removal pursuant to 28 U.S.C. §1332 and 1441, and hereby removes this matter from the Fourth Judicial District Court for the Parish of Ouachita, State of Louisiana, to the docket of this Honorable Court on the grounds set forth below:

1. Plaintiff, Curtis Williams, filed his Petition for Damages on February 21, 2023, against KLLM Transport Services, LLC, XYZ Insurance Company, and John Doe (See Plaintiff's Petition for Damages, attached hereto and marked as Exhibit "A").
2. Defendant, KLLM Transport Services, LLC, was served through its registered agent for service of process, CT Corporation System, with a copy of the Citation and Petition on March 3, 2023. (See Citation attached hereto and marked for identification as Exhibit "B").
3. The suit seeks damages from the defendants, including, KLLM Transport Services, LLC. for personal injuries allegedly sustained by plaintiff, as a result of an incident that occurred westbound on Interstate 20 in Ouachita Parish, Louisiana, on February 23,

2022.

4. Plaintiff's Petition for Damages is silent as to the amount in controversy.

I. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER JURISDICTION PURSUANT TO 28 U.S.C. § 1332.

5. 28 U.S.C. § 1332 provides the federal district court with concurrent original jurisdiction in cases “where the matter in controversy exceeds the sum of or value of \$75,000.00, exclusive of interest and costs, and is between, - (1) citizens of different States.”

A. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000.00.

6. The Fifth Circuit has explained that for purposes of establishing removal jurisdiction, a defendant may demonstrate that the amount in controversy exceeds \$75,000.00, “in either of two ways: (1) by demonstrating that it is ‘facially apparent’ from the petition that the claim likely exceeds \$75,000.00, or (2) ‘by setting forth *the facts* in controversy- preferably in the removal petition, but sometimes by affidavit- that support a finding of the requisite amount.’” *Grant v. Chevron Phillips Chemical, Co.*, 309 F.3d 864, 868 (5th Cir. 2002) (emphasis in original) (quoting *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1995)).
7. In Paragraph 5 of plaintiff's Petition for Damages, plaintiff, Curtis Williams, claims he “sustained injuries to his back, neck, shoulders, upper extremities, lower extremities and emotions.”
8. In *Strother v. Cont'l Cas. Ins. Co.*, 05-1094 (La. App. 3 Cir. 11/22/06), 944 So.2d 774, the Louisiana Third Circuit upheld a jury award of \$144,000.00 (CPI adjusted \$213,798.91) to a plaintiff injured in a motor vehicle collision who suffered a disc protrusion and was recommended for an ESI. In *Fox v. Anderson*, 2005-934 (La. App. 3 Cir. 3/1/06), 924 So. 2d 399, the Louisiana Third Circuit upheld an award of \$175,000.00 (CPI adjusted \$262,035.79) in general damages where the plaintiff in a car

crash aggravated a pre-existing lumbar herniation, requiring several injections, and also aggravated pre-existing cervical disc bulges but underwent no interventional cervical treatment. In *Boudreaux v. Farmer*, 604 So.2d 641 (La. App. 1 Cir. 1992), the court of appeal found no abuse of discretion where plaintiff sustained injuries to her neck and head, which caused her to suffer continuing headaches and neck pain for years following. Plaintiff was diagnosed as a chronic pain patient. There was no surgery involved. Plaintiff was awarded \$600,000.00 (CPI Adjusted \$1,299,797.25) in general damages.

9. In Paragraph 9 of plaintiff's Petition for Damages, plaintiff claims to have suffered "past and future enjoyment of life, inconvenience, past and future pain and suffering, past and future mental anguish and emotional distress, past and future medical expenses, past and future loss of earnings, past and future loss of earning capacity, past and future disability, past and future physical impairment, lost wages, prescription expenses, loss of use, property damage expenses, medical related expenses and bills, and all non-economic damages."
10. Plaintiff's Petition for Damages does not offer a binding stipulation that plaintiff will not seek to enforce any judgment that may be awarded in excess of \$75,000.00, as would be required pursuant to *Davis v. State Farm*, No. 06-560, slip op. (E.D. La. June 7, 2006); *DeAguillar v. Boeing Co.*, 47 3rd 1404 (5th Cir. 1995).
11. Defendant submits that based on the plaintiff's alleged injuries and medical treatment, and exclusive of interest and costs, the amount in controversy exceeds the minimum required for federal diversity jurisdiction, exclusive of interest and costs.

B. COMPLETE DIVERSITY

12. Plaintiff, Curtis Williams, is a person of full age of majority domiciled in and a citizen

of the Parish of Ouachita, State of Louisiana.

13. Defendant, KLLM Transport Services, LLC, is a 100% wholly owned subsidiary of Investment Transportation Services, LLC. Investment Transportation Services, LLC is a 100% wholly owned subsidiary of Duff Capital Investors, LLC. Duff Capital Investors, LLC is wholly owned by two members, the Thomas Milton Duff Trust and the James Earnest Duff Trust. The trustee of the Thomas Milton Duff Trust is Cameron Sewell, a resident of the State of Texas. The sole beneficiary of the trust is Thomas Duff, who is a resident of the State of Mississippi. The trustee of the James Earnest Duff Trust is Cameron Sewell, a resident of the State of Texas. The sole beneficiary of the trust is James Earnest Duff who is a resident of the State of Mississippi. Therefore, KLLM Transport Services, LLC is a citizen of the State of Texas and Mississippi.
14. Accordingly, there is complete diversity of citizenship between the plaintiff and the defendants.
15. This is a civil action over which the United States District Court for the Western District of Louisiana has concurrent original jurisdiction under the provisions of 28 U.S.C. § 1332, *et. seq.*, as the amount in controversy, evidenced by similar Louisiana Quantum exceeds **SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS** (\$75,000.00), exclusive of interest and costs, and complete diversity exists between all adverse parties.

II. DEFENDANT HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR REMOVAL.

16. Defendant, KLLM Transport Services, LLC., was served with the Petition for Damages through their agent for service, CT Corporation System, 3867 Plaza Tower Drive, Baton Rouge, Louisiana 70816 on March 3, 2023, (see Service of Process

Transmittal Summary Attached herein to the Petition and Citation attached to Exhibit “B”).

17. Plaintiff’s Petition for Damages is silent as to the value of plaintiff’s damages and/or the amount in controversy.
18. Plaintiff’s Petition for Damages does not offer a binding stipulation that plaintiff will not seek to enforce any judgment that may be awarded in excess of \$75,000.00, as would be required pursuant to *Davis v. State Farm*, No. 06-560, slip op. (E.D. La. June 7, 2006; *DeAguillar v. Boeing Co.*, 47 3rd 1404 (5th Cir. 1995).
19. Jurisdiction is founded on the existence of diversity jurisdiction under 28 U.S.C. § 1332, which grants federal courts concurrent jurisdiction over claims where the matter in controversy exceeds the sum or value of **SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS** (\$75,000.00), exclusive of interest and costs, and is between citizens of different States.
20. The Fourth Judicial District Court for the Parish of Ouachita, State of Louisiana, is located within the Western District of Louisiana pursuant to 28 U.S.C. § 1441(a) because it is the “district and division embracing the place where such action is pending.”
21. No previous application has been made by KLLM Transport Services, LLC in this case for the relief requested herein.
22. Pursuant to 28 U.S.C. § 1446(a), a certified copy of the Fourth Judicial District Court’s record will be supplemented as Exhibit “C”. Pursuant to 28 U.S.C. § 1446(a), a copy of this Petition for Removal is being served upon counsel for plaintiff, and a Notice of Removal is being forwarded to be filed with the Clerk of Court for the Fourth Judicial District Court for the Parish of Ouachita, State of Louisiana, and sent to the

counsel for plaintiff.

23. KLLM Transport Services, LLC desires and is entitled to a trial by jury of all issues.

WHEREFORE, defendant, KLLM Transport Services, LLC., hereby removes this action from the Fourth Judicial District Court for the Parish of Ouachita, State of Louisiana, to the docket of the United States District Court for the Western District of Louisiana.

Respectfully submitted,

THE TRUITT LAW FIRM

A Limited Liability Company

s//Jack E. Truitt

JACK E. TRUITT, BAR NO. 18476, T.A.
MICHELLE MAYNE DAVIS, BAR NO. 23027
LAUREN A. DUNCAN, BAR NO. 37105
KAYLIN K. STOREY, BAR NO. 39721
LOU ANNE MILLIMAN, BAR NO. 23869
1321 Ochsner Boulevard, Suite 200
Covington, Louisiana 70433
Telephone: (985) 327-5266
Facsimile: (985) 327-5252
Email: mail@truittlaw.com
Counsel for KLLM Transport Services, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been duly served on all counsel of record by depositing same into the U.S. Mail, postage pre-paid, and/or by hand and/or by facsimile and/or by electronic means on May 12, 2023.

s//Jack E. Truitt

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
STATE OF LOUISIANA

CURTIS WILLIAMS,
Plaintiff

VERSUS

KLLM TRANSPORT SERVICES, LLC,
XYZ INSURANCE COMPANY, AND
JOHN DOE

Defendants

* CIVIL ACTION No.:
*
* SECTION:
*
* JUDGE:
*
* MAGISTRATE JUDGE:
*

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF ST. TAMMANY


BEFORE ME, the undersigned authority, personally came and appeared:

JACK E. TRUITT, ESQ.

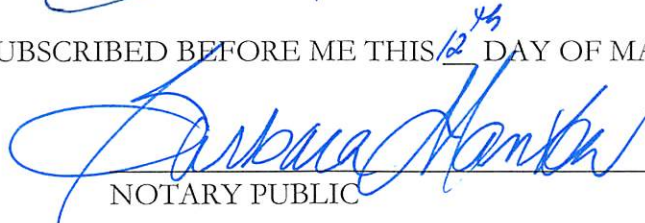
who, after being duly sworn by me, did depose and state:

That all of the allegations contained in the Notice of Removal herein filed are true and correct to the best of her knowledge, information and belief.

The foregoing statements have been made based upon my own personal knowledge, information, and belief.



SWORN TO AND SUBSCRIBED BEFORE ME THIS ^{12th} DAY OF MAY, 2023.


NOTARY PUBLIC

BARBARA MANTON
NOTARY PUBLIC
STATE OF LOUISIANA
ID # 80490
COMMISSIONED FOR LIFE

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

STATE OF LOUISIANA

CURTIS WILLIAMS,
Plaintiff

VERSUS

**KLLM TRANSPORT SERVICES, LLC,
XYZ INSURANCE COMPANY, AND
JOHN DOE**

Defendants

* **CIVIL ACTION No.:**
*
* **SECTION:**
*
* **JUDGE:**
*
* **MAGISTRATE JUDGE:**
*

CERTIFICATE

I hereby certify that an exact copy of the above and foregoing Petition for Removal, including the original notice, attached hereto, was this date served upon, Clerk of Court, Fourth Judicial District Court, Parish of Ouachita, Louisiana and Plaintiff, through his counsel of record, Eddie M. Clark, Esq., 11001 Century Boulevard, Monroe, Louisiana, by depositing copies of same in the United States Mail, postage pre-paid, on May 12, 2023.

Respectfully Submitted,

THE TRUITT LAW FIRM
A Limited Liability Company



JACK E. TRUITT, BAR NO. 18476, T.A.
MICHELLE MAYNE DAVIS, BAR NO. 23027
LAUREN A. DUNCAN, BAR NO. 37105
KAYLIN K. STOREY, BAR NO. 39721
LOU ANNE MILLIMAN, BAR NO. 23869
1321 Ochsner Boulevard, Suite 200
Covington, Louisiana 70433
Telephone: (985) 327-5266
Facsimile: (985) 327-5252
Email: mail@truittlaw.com

Counsel for KLLM Transport Services, LLC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been duly served on all counsel of record by depositing same into the U.S. Mail, postage pre-paid, and/or by hand and/or by facsimile and/or by electronic means on May 12, 2023.

